

CALENDAR ITEM

C19

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10/13/16

PRC 9257.1

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V. Caldwell

**RESCISSION OF APPROVAL AND ISSUANCE OF A GENERAL LEASE –
RECREATIONAL USE**

APPLICANT:

Dyanna Taylor and Seth Whiteside Taylor

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Corte Madera Creek, adjacent to 119 Greenbrae Boardwalk, near the city of Larkspur, Marin County.

AUTHORIZED USE:

Use and maintenance of an existing uncovered floating boat dock, pilings, walkway, and ramp not previously authorized by the Commission.

LEASE TERM:

20 years, beginning December 18, 2015.

CONSIDERATION:

\$178 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and the State's Best Interests Analysis:

On December 18, 2015, the Commission authorized a General Lease – Recreational Use to Dyanna Taylor and Joan Iten Sutherland ([Calendar Item 46, December 18, 2015](#)). Subsequent to the Commission's approval, but before the lease was executed, staff was notified that the upland was in the process of being transferred when the Commission authorized the

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lease. Staff is now requesting that the December 18, 2015, authorization be rescinded.

On August 18, 2016, the property was transferred to Dyanna Taylor and Seth Whiteside Taylor. The Applicant is now applying for a General Lease – Recreational Use.

The subject dock and appurtenant facilities are for the docking and mooring of boats. Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5). The subject structures are privately owned and maintained. The applicant owns the adjacent upland parcel and it is developed with a residence.

The proposed lease includes provisions protecting the public use of the proposed lease area, including a limited lease term of 20 years, and a non-exclusive use provision. The limited lease term allows the Commission flexibility if it later determines that the Public Trust needs of the area have changed over time.

The dock and appurtenant facilities have existed for many years at this location. The facilities do not significantly alter the land, and the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to its original condition. Based on the foregoing, Commission staff believes that the dock and appurtenant facilities will not substantially interfere with Public Trust needs, at this location, at this time, and for the foreseeable term of the proposed lease.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

CALENDAR ITEM NO. **C19** (CONT'D)

OTHER PERTINENT INFORMATION:

1. This action is consistent with the Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. Rescission of the lease is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

3. Staff recommends that the Commission find that issuance of the lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

CALENDAR ITEM NO. **C19** (CONT'D)

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Rescind previous authorization of Lease No. 9257.1, a General Lease – Recreational Use, on December 18, 2015, to Dyanna Taylor and Joan Iten Sutherland.
2. Authorize issuance of a General Lease – Recreational Use to Dyanna Taylor and Seth Whiteside Taylor beginning December 18, 2015, for a term of 20 years, for an existing uncovered floating boat dock, pilings, walkway, and ramp not previously authorized by the Commission as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration for the uncovered floating boat dock, pilings, walkway, and ramp: \$178 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 9257.1

LAND DESCRIPTION

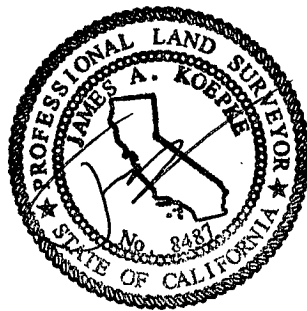
A parcel of tide and submerged land situate in the bed of the Corte Madera Creek, in the unincorporated area of Greenbrae, County of Marin, State of California, and being more particularly described as follows:

COMMENCING at the southwest corner of Parcel Two as described in that certain Trust Transfer Deed recorded as Document No. 2014-0008072, Official Records of said county; thence along the westerly boundary of said parcel, North 5° 15' 00" West 119.93 feet to the POINT OF BEGINNING; thence along said westerly boundary and northerly prolongation thereof, North 5° 15' 00" West 84.57 feet; thence leaving said boundary prolongation, South 85° 08' 45" West 43.65 feet to a point on the northerly prolongation of the easterly boundary of Parcel One as described in that certain Grant Deed recorded as Document No. 2001-0060013, Official Records of said county; thence along said prolongation and easterly boundary, South 7° 15' 00" East 85.23 feet; thence leaving said easterly boundary, North 84° 18' 45" East 40.68 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portions lying landward of the Ordinary High Water Mark on the right bank of said Corte Madera Creek.

END OF DESCRIPTION

Prepared 06/28/2016 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE

CORTE MADERA CREEK

**LEASE
AREA**

9' IMPACT
AREA 2

EXISTING
PILINGS (2)

EXISTING
WALKWAY
5' WIDE

APPROX.
SHORELINE

9' IMPACT
AREA 1

EXISTING
DOCK
40' LONG

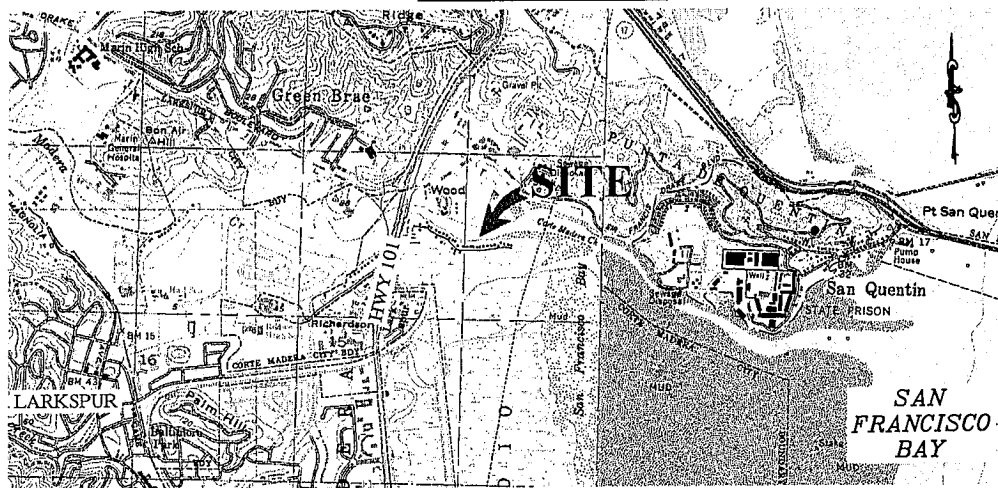
EXISTING
RAMP
3.8' x 19'

APN
023-021-15

119 GREENBRAE BOARDWALK, GREENBRAE

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 9257.1
TAYLOR
APN 023-021-15
GENERAL LEASE -
RECREATIONAL USE
MARIN COUNTY



TS 06/28/16